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8 EXTENET SYSTEMS (CALIFORNIA) LLC
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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN MATEO -- SOUTHERN BRANCH

12 EXTENET SYSTEMS (CALIFORNIA), LLC, A
13 CALIFORNIA LIMITED LIABILITY
COMPANY

14 Plaintiff

15 vs.
16

17 CITY OF BURLINGAME, CALIFORNIA, A
18 CALIFORNIA MUNICIPAL CORPORATION

19 Defendant.
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ENDORSED FILED
SAN MATEO COUNTY

SEP 29 2011

Clerk of the Superior Court
By S. Peyrot
DEPUTY CLERK

Case No:

CIV 508756

DECLARATION OF TERRY RAY IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION

BY FAX

DECLARATION OF TERRY RAY

I, Terry Ray, hereby declare and attest as follows:

1. I am Vice President, Strategic Business Initiatives for ExteNet Systems, Inc. ("ExteNet Systems") the sole member of ExteNet Systems (California), LLC dba ExteNet Systems ("ExteNet") and I work out of ExteNet's offices at 3030 Warrenville Rd, Ste 340, Lisle, IL 60532.

2. I make this Declaration in support of ExteNet's Motion for Preliminary Injunction in the above captioned action. Unless otherwise indicated, I know the following of my own personal knowledge, and if called as a witness in this action, I could and would testify competently to these facts under oath.

3. As the Vice President, Strategic Business Initiatives, my responsibilities include the management and direction of the Municipal Relations team at ExteNet Systems and ExteNet. The Municipal Relations employees have direct interaction with the local jurisdictions in which we conduct our business. I have over 10 years of experience in the telecommunications industry. From August 2004 to November 2010, I was the Chief Financial Officer of ExteNet and ExteNet Systems. Prior to working for ExteNet Systems, from 1999 to 2004, I held various positions in the electronics enclosures business, which is closely related to the telecommunications industry.

4. ExteNet Systems and ExteNet are new entrants in the telecommunications industry. ExteNet Systems raised its initial funding in August 2004. ExteNet is in the process of establishing its reputation with customers and potential customers in the City of Burlingame, California ("City") and throughout the rest of California. Most of ExteNet's customers are wireless communications carriers, which is a market consisting of a small number of major players. Therefore, there is a limited number of potential clients from which ExteNet may rely upon for the survival and growth of its business.

5. ExteNet entered into contracts with a major wireless carrier to supply the customer telecommunications services on a 14-node distributed antenna system ("DAS"), eight nodes of which are within the City boundaries. This contract is referred to as a DAS Service Agreement ("DSA"). Additionally, ExteNet Systems has entered into a Master License

1 Agreement with the same customer ("MLA"), which defines key terms of the DSA.¹

2 6. To perform its obligations under the DSA and MLA, ExteNet needs to install its
3 telecommunications facilities in the City's public rights-of-way. Further, ExteNet needs to
4 provide service to its customer in the City according to a Deployment Schedule attached to the
5 DSA. According to the DSA, ExteNet was contractually obligated to construct its
6 telecommunications system and commence operations by March 1, 2011.

7 7. If ExteNet is not able to meet its project commencement obligations in the DSA,
8 then its customer may either terminate the contract or be entitled to a "deployment credit"
9 against the agreed-upon annual fees.

10 8. As a result of the City's delays in processing ExteNet's special encroachment
11 permit applications and the application of the moratorium to ExteNet's DAS project in
12 Burlingame, ExteNet's customer has indicated it may consider termination of the contract and
13 ExteNet faces reputational harm as well as a loss of anticipated revenues. The customer has not
14 yet terminated under an expectation that completion of the permitting process was imminent.
15 The moratorium undermines that expectation.

16 9. As a new entrant, ExteNet relies on its reputation to promote its services within
17 the telecommunications industry. ExteNet's reputation is particularly important because ExteNet
18 operates within a unique market niche, and as a result has a limited number of potential
19 telecommunication carrier clients. If ExteNet is unable to satisfy its contractual commitments to
20 one of them, this fact will become known to ExteNet's other potential clients, which will damage
21 ExteNet's ability to obtain new customer contracts and thereby grow its business.

22 10. ExteNet's successful performance of its contract would enhance ExteNet's
23 reputation within this industry and demonstrate to potential customers that ExteNet's services are
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25 _____
26 ¹ The DSA and MLA are not attached to this declaration because the contents are highly
27 confidential and trade secrets, and their disclosure to the public would cause ExteNet significant
28 irreparable harm. For example, the pricing of ExteNet's service, the timing and schedule for
ExteNet's deployment are all confidential data that ExteNet has developed that are not known to
the public, and which ExteNet takes significant steps to protect from public disclosure. Such
information, if disclosed, would cause ExteNet competitive harm.

1 reliable. A failure to perform under the contract would harm ExteNet's reputation.

2 11. ExteNet also relies on the successful performance of its contract to generate
3 revenue that could provide a valuable source of funding for future projects. Without the revenue
4 to fund future projects, ExteNet's ability to sustain and grow its business would be substantially
5 impaired.

6 I declare under penalty of perjury under the laws of the United States of America and the
7 State of California that the foregoing is true and correct and that this Declaration was executed
8 by me on September 28, 2011 in Lisle, Illinois.

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12 Terry Ray
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